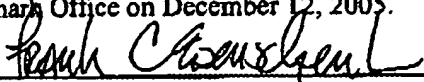


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Frank C. Eisenschenk, Ph.D., Patent Attorney

APPLICATION FOR PATENT TERM
ADJUSTMENT UNDER 37 CFR §1.705(b)
Examining Group 1639
Patent Application
Docket No. TPI-T600XC1
Serial No. 09/994,585

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner : Jon D. Epperson
Art Unit : 1639
Applicant : Douglas Levinson
Serial No. : 09/994,585
Filed : November 27, 2001
For : Rapid Identification of Conditions, Compounds, or Compositions That
Inhibit, Prevent, Induce, Modify, or Reverse Transitions of Physical State

Mail Stop Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

APPLICATION FOR PATENT ADJUSTMENT
UNDER 37 CFR §1.705(b)

Sir:

The subject application was filed on November 27, 2001. Applicant received a Notice to File Missing Parts dated December 21, 2001 and filed a response thereto that was received in the U.S. Patent Office (USPTO) on February 6, 2002. Applicant submits that the response and its receipt by the USPTO constituted no applicant delay.

A first action in this application would have been due by January 27, 2003. However, Applicant did not receive a Restriction Requirement until May 1, 2003. This constituted a Patent Office delay of 93 days. Applicant's response to the Restriction Requirement was filed on June 2, 2003 via facsimile, which constituted no applicant delay.

Applicant then received a Notice of Non-Responsive Amendment dated August 12, 2003 to which applicant filed a Supplemental Election via facsimile on September 12, 2003. This Supplemental Election constituted an applicant delay of only 42 days since Applicant would have had until August 1, 2003 to file an initial Election before accruing Applicant delay. Therefore, the time period from August 1, 2003 to September 12, 2003 should be counted as Applicant delay.

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Applicant then received an Office Action dated December 8, 2003 to which a Response Under 37 CFR 1.111 was filed on March 4, 2004. Applicant's below-signed representative then conducted an Interview with Examiner Epperson, Bennett Celsa and John Lucas on June 23, 2004. During arrangements for that interview, Examiner Epperson indicated to Applicant's representative that the March 4, 2004 Response Under 37 CFR 1.111 was non-responsive and that a Notice of Non-Responsive Amendment would be sent to Applicant. In order to put the Response in proper compliance prior to the Examiner interview, a Supplemental Response Under 37 CFR 1.111 was filed by Applicant on June 17, 2004 that would constitute a 101 day Applicant delay.

Applicant then received an Office Action dated September 24, 2004 that should not have been issued. However, on October 1, 2004, Applicant received a facsimile (copy enclosed) from Examiner Epperson stating that the September 24, 2004 Office Action would be vacated, and also providing the Notice of Non-Responsive Amendment (copy enclosed) that was not included with the September 24, 2004 Office Action. Applicant also notes that the Communication regarding notice of non-response amendment was dated May 26, 2004. This notice, however, was not, and has not been, mailed to applicant by the USPTO.

On October 4, 2004, Applicant filed a further Supplemental Communication to reply to the Notice of Non-Responsive Amendment to make of record the fact that Applicant had *previously filed* a Supplemental Response on June 17, 2004 in anticipation of receiving said Notice of Non-Responsive Amendment, as discussed above.

Applicant does not believe that the time period from June 17, 2004 to October 4, 2004 should constitute a delay on the part of Applicant, as official notice of the non-compliant amendment was not mailed to Applicant. Further, Applicant respectfully asserts that the USPTO should have informed Applicant in a more timely fashion that the response filed on March 4, 2004 was not considered responsive. Therefore, Applicant further respectfully asserts that the 101 day Applicant delay mentioned above should also be significantly reduced due to the USPTO's untimely notice of such facts, particularly in view of the Patent Office's failure to mail the Notice of Non-compliant Amendment to Applicant. Indeed, Applicant was not informed of the Examiner's holding of non-response until three months after said response was filed and a copy of the Notice of Non-Responsive Amendment was faxed to applicant in a Patent Office Communication on October 1, 2004, more than 6 months (214 days) later.

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Docket No. TPI-T600XC1
Serial No. 09/994,585

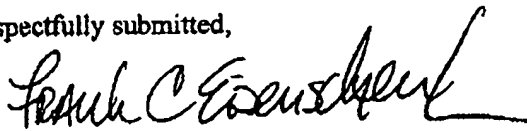
Applicant subsequently received a final Office Action dated April 4, 2005. Considering that Applicant's last Supplemental Communication was filed on October 4, 2004 (only to reply to the untimely Notice of Non-Response Amendment), this would constitute a USPTO delay of 58 days. However, Applicant would like to respectfully make note of the fact that, as discussed above, a Supplemental Amendment was filed on June 17, 2004 which was fully responsive to the previous Office Action. Therefore, the time period from June 18, 2004 to April 4, 2005 would constitute a USPTO delay of 291 days.

A reply to the final Office Action was filed timely by Applicant via facsimile on July 5, 2005. Applicant then received an Advisory Action dated July 21, 2005 to which Applicant filed a Supplemental Amendment with a Notice of Appeal on September 2, 2005, constituting an Applicant delay of 59 days. In reply to the Supplemental Amendment, Examiner Epperson issued a Notice of Allowance dated September 22, 2005.

Applicant respectfully submits that he is entitled to approximately 182 days of Patent Term Adjustment (384 days of Patent Office delay reduced by 202 days of Applicant's delay, as outlined above).

Please charge the fee of \$200 for this Application for Patent Term Adjustment to Deposit Account No. 19-0065. Any additional fees as required by 37 CFR §§1.16 or 1.17 should be charged to Deposit Account No. 19-0065. Two additional copies of this Application are enclosed.

Respectfully submitted,



Frank C. Eisenschenk, Ph.D.

Patent Attorney

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Phone No.: 352-375-8100

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Gainesville, FL 32614-2950

FCE/gld

Attachments: Copy of Fax Cover Sheet from Examiner Epperson dated Oct. 1, 2004 with accompanying Office Communication dated May 26, 2004.